



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, UT 84631



In Reply Refer to:
3800
(U-010)
UTU-070642

April 1, 2003

CERTIFIED MAIL #7001 1940 0004 6456 0243
RETURN RECEIPT REQUESTED

DAVID HANSON
BOX 378
EUREKA UT 84628

DECISION

:
: 43 CFR 3809
: SURFACE MANAGEMENT

RECEIVED

APR 04 2003

DIV. OF OIL, GAS & MINING

Notice Expired-Reclamation Required

Notice UTU-070642 was filed with this office on January 10, 1990. § 3809.300(a) of the Surface Management regulations requires that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the BLM in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of § 3809.503. The Bureau of Land Management (BLM) did not receive written notification that you wished to extend your notice by January 20, 2003 (extended to January 21, 2003 due to a federal holiday). Because you did not meet the requirements under § 3809.333, your notice, UTU-070642, expired on January 20, 2003.

Pursuant to § 3809.300(d), you may not conduct operations under an expired notice. If you wish to resume operations, you may postpone reclamation if you file either a new notice pursuant to 43 CFR 3809.301 or a plan of operations pursuant to § 3809.401 within 30 days from receipt of this decision. The performance standards outlined in § 3809.420 and the financial guarantee requirements provided in § 3809.500, et seq., apply to both notices and plans. The notice must be accepted or the plan of operations must be approved, and a financial guarantee accepted prior to any additional earth disturbing activities occurring at this site. If the newly submitted notice is not accepted or the plan of operations is not approved, or you do not timely post the appropriate financial guarantee as requested for either a notice or a plan of operation, you must begin reclamation within 30 days of BLM's decision finding that the new notice or plan of operations or financial guarantee is incomplete or unacceptable.

If you do not submit a new notice or plan within 30 days from receipt of this decision, reclamation must begin on the 31st day, and be completed at the earliest feasible time, unless you contact this office

and gain approval to postpone commencement. To ensure that you meet the standards described in § 3809.420(b)(2 and 3) (identical to § 3809.1-3(d)(2 through 4) of the regulations effective immediately before January 20, 2001), an inspection of the site subject to your notice was conducted on January 22, 2003 and revealed the following items that must be completed:

1. Remove any explosive or toxic items from the mine shaft and surrounding area.
2. Remove any personal items and all other debris from the area that the BLM archaeologist has not determined to be of a historic nature.
3. Permanently seal the mine shaft.

Since the site in question has historic qualities, you must contact Sheri Wysong at (435) 743-3124 prior to commencing reclamation. We will set up a joint inspection of the site to discuss how to seal the shaft while maintaining its historic nature. Also, in accordance with § 3809.420(b)(3)(iii) (identical to § 3809.1-3(d)(5) of the regulations effective immediately before January 20, 2001), you must notify this office upon completion of reclamation. BLM will schedule an inspection to verify whether you have met your reclamation obligations and notify you promptly in writing of the results of the inspection and close your notice if appropriate.

Your reclamation obligation continues beyond the expiration of your notice until such time as BLM determines that the reclamation is satisfactorily completed. Failure to begin reclamation promptly or to conduct reclamation to BLM specified standards is subject to the enforcement actions specified in § 3809.601 to § 3809.701. If you are presently engaged in occupancy, under 43 CFR 3715, of the lands encompassed by your expired notice, you may also be subject to enforcement actions as specified at § 3715.7-1.

If you do not agree and are adversely affected by this decision, in accordance with § 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in § 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21 day period in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Rex Rowley

Enclosures:

Form 1842-1
43 CFR 3809 Regulations

cc: Tom Munson, UDOGM (E/023/059)
Tim Carson, 417 Highland Dr., Tooele UT 84074

bcc: T. Snyder, U-923